

**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 105: CITIES AND TOWNS**

**§1138. RECAPTURE PENALTY**

**1. Assessor determination; owner request.** If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. The owner or owners of land subject to this subchapter may at any time request withdrawal of any land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

[ 2007, c. 466, Pt. A, §58 (NEW) . ]

**2. Withdrawal of portion.** In the case of withdrawal of a portion of the working waterfront land, the owner or owners, as a condition of withdrawal, shall file with the assessor a schedule including the information required under section 1137, subsection 1 showing the area withdrawn and the area remaining under this subchapter.

[ 2007, c. 466, Pt. A, §58 (NEW) . ]

**3. Penalty.** If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner or owners. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding such withdrawal had such real estate been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years, and interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and [ 2007, c. 466, Pt. A, §58 (NEW) . ]

B. An amount computed by multiplying the amount, if any, by which the fair market value of the real estate on the date of withdrawal exceeds the 100% valuation of the real estate pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the real estate was subject to valuation under this subchapter for 10 years or less prior to the date of withdrawal, the rate is 30%; and

(2) If the real estate was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the real estate was subject to valuation under this subchapter prior to the date of withdrawal until a rate of 20% is reached. [ 2007, c. 466, Pt. A, §58 (NEW) . ]

For purposes of this section, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

[ 2007, c. 466, Pt. A, §58 (NEW) . ]

**4. Assessment and collection of penalties.** The penalties for withdrawal must be paid upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

[ 2007, c. 466, Pt. A, §58 (NEW) . ]

**5. Eminent domain.** A penalty may not be assessed under this section if the withdrawal of the parcel is occasioned by a transfer to the State or other entity holding the power of eminent domain resulting from the exercise or threatened exercise of that power.

[ 2007, c. 466, Pt. A, §58 (NEW) .]

**6. Relief from requirements.** Upon withdrawal, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under the statutes relating to the taxation of real property to be so taxed on the following April 1st.

[ 2007, c. 466, Pt. A, §58 (NEW) .]

**7. Reclassification as open space.** No penalty may be assessed upon the withdrawal of land from taxation under this subchapter if the owner or owners apply for and are accepted for classification of that land as open space land under subchapter 10.

[ 2007, c. 466, Pt. A, §58 (NEW) .]

**8. Report of penalty.** Any municipality that receives a penalty for the withdrawal of land from taxation under this subchapter shall report to the State Tax Assessor the total amount received in that reporting year on the municipal valuation return form described in section 383.

[ 2007, c. 466, Pt. A, §58 (NEW) .]

#### SECTION HISTORY

2007, c. 466, Pt. A, §58 (NEW).

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